

and development of transportation projects.

(e) For projects utilizing design-build and other alternative project delivery methods for which final design is not complete prior to the release of the final request for proposals or other applicable solicitation documents, the estimated total cost for purposes of the thresholds identified in paragraphs (b)(1) and (2) of this section, shall be based on the best estimate of the cost to construct the project.

#### § 627.7 VE programs.

(a) The STA shall establish and sustain a VE program under which VE analyses are conducted for all applicable projects. The STA's VE program shall:

(1) Establish and document VE program policies and procedures that ensure the required VE analysis is conducted on all applicable projects, and encourage conducting VE analyses on other projects that have the potential to benefit from this analysis;

(2) Ensure the VE analysis is conducted and all approved recommendations are implemented and documented in a final VE report prior to the project being authorized to proceed to a construction letting;

(3) Monitor and assess the VE Program, and disseminate an annual report to the FHWA consisting of a summary of all approved recommendations implemented on applicable projects requiring a VE analysis, the accepted VECPs, and VE program functions and activities;

(4) Establish and document policies, procedures, and contract provisions that identify when VECP's may be used; identify the analysis, documentation, basis, and process for evaluating and accepting a VECP; and determine how the net savings of each VECP may be shared between the agency and contractor;

(5) Establish and document policies, procedures, and controls to ensure a VE analysis is conducted and all approved recommendations are implemented for all applicable projects administered by local public agencies; and ensure the results of these analyses are included in the VE program monitoring and reporting; and

(6) Provide for the review of any project where a delay occurs between when the final plans are completed and the project advances to a letting for construction to determine if a change has occurred to the project's scope or design where a VE analysis would be required to be conducted (as specified in 23 CFR 627.5(b)).

(b) STAs shall ensure the required VE analysis has been performed on each applicable project including those administered by subrecipients, and shall ensure approved recommendations are implemented into the project's plans, specifications, and estimate.

(c) STAs shall designate a VE Program Coordinator to promote and advance VE program activities and functions. The VE Coordinator's responsibilities should include establishing and maintaining the STA's VE policies and procedures; facilitating VE training; ensuring VE analyses are conducted on applicable projects; monitoring, assessing, and reporting on the VE analyses conducted and VE program; participating in periodic VE program and project reviews; submitting the required annual VE report to the FHWA; and supporting the other elements of the VE program.

#### § 627.9 Conducting a VE analysis.

(a) A VE analysis should be conducted as early as practicable in the planning or development of a project, preferably before the completion of the project's preliminary design. At a minimum, the VE analysis shall be conducted prior to completing the project's final design.

(b) The VE analysis should be closely coordinated with other project development activities to minimize the impact approved recommendations might have on previous agency, community, or environmental commitments; the project's scope; and the use of innovative technologies, materials, methods, plans or construction provisions.

(c) For projects utilizing design-build and other alternative project delivery methods that will be advertised prior to the completion of final design, the STA or local public agency shall conduct a VE analysis prior to the release of the final Request for Proposals or

other applicable solicitation documents.

(d) STAs shall ensure the VE analysis meets the following requirements:

(1) Uses a multidisciplinary team not directly involved in the planning or design of the project, with at least one individual who has the training and experience with leading a VE analysis;

(2) Develops and implements the VE Job Plan;

(3) Produces a formal written report outlining, at a minimum:

(i) Project information;

(ii) Identification of the VE analysis team;

(iii) Background and supporting documentation, such as information obtained from other analyses conducted on the project (e.g., environmental, safety, traffic operations, constructability);

(iv) Documentation of the stages of the VE Job Plan which would include documentation of the life-cycle costs that were analyzed;

(v) Summarization of the analysis conducted;

(vi) Documentation of the proposed recommendations and approvals received at the time the report is finalized; and

(vii) The formal written report shall be retained for at least 3 years after the completion of the project (as specified in 49 CFR 18.42).

(e) For bridge projects, in addition to the requirements in paragraph (d) of this section, the VE analyses shall:

(1) Include bridge substructure and superstructure requirements that consider alternative construction materials; and

(2) Be conducted based on:

(i) An engineering and economic assessment, taking into consideration acceptable designs for bridges; and

(ii) An analysis of life-cycle costs and duration of project construction.

(f) STAs and local public agencies may employ qualified consultants (as defined in 23 CFR 172) to conduct a VE analysis. The consultant shall possess the training and experience required to lead the VE analysis. A consulting firm or individual shall not be used to conduct or support a VE analysis if they have a conflict of interest (as specified in 23 CFR 1.33).

(g) VECPs, STAs, and local public agencies are encouraged to use a VECF clause (or other such clauses under a different name) in an applicable project's contract, allowing the construction contractor to propose changes in the project's plans, specifications, or other contract documents. Whenever such clauses are used, the STA and local authority will consider changes that could improve the project's performance, value and quality, shorten the delivery time, or lower construction costs, while considering impacts on the project's overall life-cycle cost and other applicable factors. The basis for a STA or local authority to consider a VECF is the analysis and documentation supporting the proposed benefits that would result from implementing the proposed change in the project's contract or project plans.

(h) Proposals to accelerate construction after the award of the contract will not be considered a VECF and will not be eligible for Federal-aid highway program funding participation. Where it is necessary to accelerate construction, STAs and local public agencies are encouraged to use the appropriate incentive or disincentive clauses so that all proposers will take this into account when preparing their bids or price proposals.

## PART 630—PRECONSTRUCTION PROCEDURES

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